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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 KEVIN ADONAY GARCIA BERRIOS,

14 Defendant.  
15  
16

Case No. 2:23-mj-00142-EJY

**JOINT STATUS REPORT AND  
STIPULATION**

17 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M.  
18 Frierson, United States Attorney, and Melanee Smith, Assistant United States  
19 Attorney, counsel for the United States of America, and Rene L. Valladares,  
20 Federal Public Defender, and Joy Chen, Assistant Federal Public Defender,  
21 counsel for Kevin Adonay Garcia Berrios, that defendant's guilty plea to  
22 Operating a Motor Vehicle While Under the Influence of Alcohol, 36 C.F.R. §  
23 4.23(a)(1), be withdrawn; that the government be permitted to amend the charge  
24 to Reckless Driving, 36 C.F.R. § 4.2(b), N.R.S. § 484.653(1); that the defendant's  
25  
26

1 original guilty plea and sentence be applied to the amended charge; and that the  
2 defendant's unsupervised probation be terminated at this time.

3 This Stipulation is entered into for the following reasons:

4 1. On September 20, 2023, the parties appeared before this Court for  
5 change of plea and sentencing. ECF No. 10. At that appearance, the defendant  
6 pleaded guilty to Operating a Motor Vehicle While Under the Influence of  
7 Alcohol, a violation of 36 C.F.R. §4.23(a)(1).

8 2. Pursuant to the parties' agreement, the defendant agreed to be  
9 sentenced to unsupervised probation for one year, pay an \$800 fine and \$10  
10 assessment fee, and complete a DUI course, Victim Impact Panel, and 16-hour  
11 online alcohol awareness course. The defendant also agreed not to violate any  
12 local, state, or federal laws. The parties agreed that if the defendant successfully  
13 completed his obligations within the first six months of his unsupervised  
14 probation, the parties would jointly move to allow the defendant to withdraw his  
15 guilty plea to Operating a Motor Vehicle While Under the Influence of Alcohol,  
16 the government would move to amend the charge to Reckless Driving, a violation  
17 of 36 C.F.R. § 4.2(b), N.R.S. § 484.653(1), and the defendant's guilty plea and  
18 sentence would be automatically applied to the new charge. This Court ordered  
19 the parties to file a joint status report with the Court once the defendant  
20 completed all of the required conditions.

21 3. As of the filing of this stipulation, the defendant has completed all of  
22 the conditions set forth in the parties' agreement. Defense counsel has provided  
23 proof of completion to the government. The defendant also has not violated any  
24 local, state, or federal laws.

1           4.       The parties therefore request that this Court permit the defendant  
2 to automatically withdraw his guilty plea to Operating a Motor Vehicle While  
3 Under the Influence of Alcohol, 36 C.F.R. § 4.23(a)(1); that the government be  
4 permitted to amend the charge to Reckless Driving, 36 C.F.R. § 4.2(b), N.R.S. §  
5 484.653(1); and that the defendant's original guilty plea and sentence be applied  
6 to the amended charge.

7           5.       The parties also respectfully request that the defendant's  
8 unsupervised probation be terminated at this time.

9  
10  
11           DATED this 8<sup>th</sup> day of April, 2024.

12  
13           RENE L. VALLADARES  
14           Federal Public Defender

              JASON M. FRIERSON  
              United States Attorney

15           By /s/ Joy Chen  
16           JOY CHEN  
17           Assistant Federal Public Defender  
18           Attorney for Kevin Adonay Garcia-  
19           Berrios

              By /s/ Melanee Smith  
              MELANEE SMITH  
              Assistant United States Attorney

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
Plaintiff,

v.

KEVIN ADONAY GARCIA-BERRIOS,  
Defendant.

Case No. 2:23-mj-00142-EJY

**FINDINGS OF FACT AND ORDER**

**FINDINGS OF FACT**

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. On September 20, 2023, the parties appeared before this Court for change of plea and sentencing. ECF No. 10. At that appearance, the defendant pleaded guilty to Operating a Motor Vehicle While Under the Influence of Alcohol, a violation of 36 C.F.R. §4.23(a)(1).

2. Pursuant to the parties' agreement, the defendant agreed to be sentenced to unsupervised probation for one year, pay an \$800 fine and \$10 assessment fee, and complete a DUI course, Victim Impact Panel, and 16-hour online alcohol awareness course. The defendant also agreed not to violate any local, state, or federal laws. The parties agreed that if the defendant successfully completed his obligations within the first six months of his unsupervised probation, the parties would jointly move to allow the defendant to withdraw his guilty plea to Operating a Motor Vehicle While Under the Influence of Alcohol, the government would move to amend the charge to Reckless Driving, a violation

1 of 36 C.F.R. § 4.2(b), N.R.S. § 484.653(1), and the defendant's guilty plea and  
2 sentence would be automatically applied to the new charge. This Court ordered  
3 the parties to file a joint status report with the Court once the defendant  
4 completed all of the required conditions.

5 3. As of the filing of this stipulation, the defendant has completed all of  
6 the conditions set forth in the parties' agreement. Defense counsel has provided  
7 proof of completion to the government. The defendant also has not violated any  
8 local, state, or federal laws.

9 4. The parties therefore request that this Court permit the defendant  
10 to automatically withdraw his guilty plea to Operating a Motor Vehicle While  
11 Under the Influence of Alcohol, 36 C.F.R. § 4.23(a)(1); that the government be  
12 permitted to amend the charge to Reckless Driving, 36 C.F.R. § 4.2(b), N.R.S. §  
13 484.653(1); and that the defendant's original guilty plea and sentence be applied  
14 to the amended charge.

15 5. The parties also request that the defendant's unsupervised  
16 probation be terminated at this time.

**ORDER**

IT IS THEREFORE ORDERED that defendant's guilty plea to Operating a Motor Vehicle While Under the Influence of Alcohol, 36 C.F.R. § 4.23(a)(1), is withdrawn, and the count is amended to Reckless Driving, 36 C.F.R. § 4.2(b), N.R.S. § 484.653(1).

IT IS FURTHER ORDERED that the defendant's original guilty plea and sentence is applied to the amended charge.

IT IS FURTHER ORDERED that defendant's unsupervised probation is terminated.

DATED this 8th day of April, 2024.

  
UNITED STATES MAGISTRATE JUDGE